

**WRITTEN SUBMISSION OF NEIL HICKS, SENIOR PROGRAM  
COORDINATOR, LAWYERS COMMITTEE FOR HUMAN RIGHTS**

**I. INTRODUCTION**

Chairman Smith and members of the commission, thank you for inviting me to testify today. I appreciate the opportunity to be a part of this hearing and to share with you our perspective on these important issues. The Lawyers Committee for Human Rights is an independent, non-governmental organization. Since 1978, the Committee has worked to protect and promote fundamental human rights, holding all governments accountable to the standards contained in the International Bill of Human Rights and related international human rights instruments. In its efforts to provide workable solutions to human rights problems, the Lawyers Committee brings a principled legal focus drawn on international norms.

The Lawyers Committee for Human Rights has been engaged in an active program of human rights promotion in Turkey since January 1996. During that period, we have visited the country on at least nine occasions, developed close working relationships with local human rights organizations and lawyers, carried out large numbers of interviews with individuals involved in human rights promotion in Turkey, observed proceedings in trials and issued reports and statements about human rights issues.

We are enthused by the dynamism and courage of Turkish human rights advocates, and by the richness of the public debate about human rights issues. We are however perplexed by the lack of progress in implementing substantial human rights reform, pledged on a number of occasions by successive governments. We are especially concerned that over the last 6 months we have seen a steady worsening in human rights conditions in Turkey, which has only intensified in the weeks since the detention of Kurdish guerilla leader Abdullah Ocalan. These hearings are taking place at a difficult time for human rights in Turkey, and indeed a time of great political uncertainty. It is our firm belief that building respect for human rights and the rule of law is an essential pre-requisite for Turkey to emerge as the strong stable democracy so many of its people crave it to be.

**II. A RECORD OF UNFULFILLED PROMISES AND RECENT  
DETERIORATION IN HUMAN RIGHTS CONDITIONS.**

When then-Prime Minister Mesut Yilmaz traveled to the United States in December 1997 he promised American leaders that 1998 would be a year of human rights in Turkey and stressed that his government was committed to reform in penal procedure law; to revising laws which penalize non-violent expression (under which human rights activists continue to be prosecuted and convicted); and to providing effective safeguards against torture.

Almost without exception these promises remain unfulfilled. While we recognize that the Prime Minister was speaking only as the leader of a minority coalition government, it must be noted that successive Turkish Governments have failed in their promises to implement far-reaching reforms in human rights conditions in Turkey. Torture, unfair trial and restrictions on non-violent freedom of expression remain widespread problems, as the recent State Department Country Reports on Human Right Practices recognizes.

## THE ADMINISTRATION OF JUSTICE

There is evidence to suggest that instead of seeing progress in human rights in 1998, in the latter part of that year, and in the first months of 1999, human rights conditions are deteriorating. The most compelling evidence of official ambivalence to reform, and the death knell for Prime Minister Yilmaz's promised progress in the administration of justice, came in October 1998 with the issuing of Regulations on Apprehension, Police Custody and Interrogation.

These regulations are a major setback for human rights in Turkey, removing safeguards designed to protect pre-trial detainees from torture which had been included in a February 1998 circular issued by Prime Minister Yilmaz. Significantly, this circular was never published in the Official Gazette and was therefore never fully enforced. The regulations, in contrast, which were signed by the ministers of justice and the interior, were published immediately in the Gazette. According to reports in the Turkish press, they resulted from the opposition to the measures in the February circular from the police and the security forces.

The regulations reinforced abusive pre-trial detention procedures which proposed reforms in the Penal Procedure Code replaced before the parliament by the Yilmaz government but never enacted into law had been designed to remove. The October regulations specifically removed powers, conferred on prosecutors in the February circular, to visit detention centers at any time, without giving prior notice to the police. They also withdrew prosecutors' powers to listen in on restricted police radio frequencies so that prosecutors would know when detentions had occurred. Currently, abuses occur when members of the security forces exercise their wide-ranging powers to detain suspects without warrant, and sometimes without even informing prosecutors for several days.

The regulations removed clarified the fact that detained suspects in state security prosecutions can be denied the right of access to counsel until after the detainee's appearance before a judge, which may take between four to 7 days. This is a clear violation of international fair trial standards, and means that in practice many state security suspects are coerced into making incriminating statements which become the major evidence against them, without benefiting from advice of counsel. The right of access to counsel during the early part of detention is also an important safeguard against torture.

Judicial independence, which is a core principle of Turkish law, is threatened in practice. Most glaringly, the presence of a serving military officer as a member of the judicial panel in State Security Courts conflicts with the right to trial before an impartial, independent tribunal required in international law. State Security Courts try civilians accused of crimes against the state, including individuals accused of non-violent actions. Many prosecutions in such courts appear politically motivated, such as those brought against leaders from the political Islamic movement like Recep Tayyep Erdogan the mayor of Istanbul, and non-violent political leaders associated with the Kurdish issue, such as the leaders of the People's Democracy Party, (HADEP). Human rights advocates such as Akin Birdal, chairman of the non-governmental Human Rights Association, have been brought to trial before State Security Courts as a result of statements or publications criticizing the government's human rights practices.

The willingness to countenance change, and even to promote reform, in SSC structures and procedures which fail to meet international standards is widely shared among many influential groups and individuals in Turkish society. These include, the organized bar, leading human rights organizations, leading parliamentarians, some ministers and some judges and prosecutors with extensive SSC experience. It is then remarkable and perplexing that change has not come. There can be no doubt that SSCs, whatever their proponents may claim for their efficacy in the fight against terrorism or drug-trafficking, serve a primarily political purpose which is inimical to the rule of law. SSCs are simply too open to abuse by those in Turkish society who would ensure their continuing hold on power by resort to authoritarian repressive measures. It is regrettable that objectionable aspects of the SSC procedures especially as regards the role of the prosecutor, pre-arraignment detention periods and the right of access to counsel were re-enforced in the October 1998 Regulation on Apprehension, Police Custody and Interrogation, indicating a negative trend in official policy toward this problematic area.

Turkey has a well developed system of criminal law staffed by able lawyers, judges and prosecutors. Given the damage to the rule of law inflicted by the existence of these exceptional courts, it is difficult to believe that the cause of justice would not be better served by their abolition, and by the integration of the function of the SSCs into the regular penal court structures. Few, if any, changes to existing courts and penal procedure would be necessary in order to carry out this reform.

Also problematic is the undue executive influence over the appointment of civilian judges because of the dominant role played by the minister of justice in the Supreme Council of Judges and Prosecutors, which oversees judicial appointments. The periodic practice of the powerful National Security Council of issuing "instructions" to the judiciary about threats to the state is hardly consonant with the principle of judicial independence. Such instructions are followed by increased prosecutions against those groups identified as "threats," even when such elements may be non-violent political activists associated with causes unpopular with the military establishment.

An immediate challenge to the credibility of U.S. human rights policy, and to Turkey's commitment to the rule of law and respect for human rights, is posed by the capture of rebel leader Abdullah Ocalan. Mr. Ocalan must be accorded a fair trial, which will require the removal of the military officer from the judicial panel in the State Security Court that is scheduled to try him. As a further guarantee of procedural fairness, his lawyers must be permitted to carry out their professional duties free of interference, harassment or intimidation.

### **IMPUNITY**

A similar pattern can be discerned in the government's record of prosecuting members of the security forces implicated in gross violations of human rights such as extra-judicial killing and torture. A climate of impunity for human rights abuse in the security forces is an enormous obstacle to improving Turkey's human rights record. In 1998, in the few cases where prosecutions and convictions of police officers had occurred, such convictions were reversed on appeal. In the Manisa case, for example, in which ten police officers are accused

of the torture of a group of high school students in 1996, a richly merited conviction for torture imposed by an appeal court was reversed by the trial court at a hearing on January 29, 1999 attended by Lawyers Committee trial observers. The ten police officers remain at liberty and on active duty, with no indication that they will be called to account by the justice system in the near future. A further appeal to a higher court may take years.

In other high-profile cases convictions have been overturned on appeal. On July 17, 1998 the High Court of Appeals in Ankara overturned the convictions of five police officers implicated in the beating death of journalist Metin GöAE4ktepe in 1996. On December 24, 1998, the convictions of five police officers in the beating death of Baki Erdogan were also overturned on appeal.

Structural obstacles and problems of attitude and mentality interfere with the process of holding members of the security forces accountable for their involvement in gross violations of human rights. Bringing a prosecution against a member of the security forces requires first that the plaintiff gains approval for the prosecution from an administrative board. This additional hurdle, created by an antiquated 1913 Ottoman Law, (the Law on the Procedure for the Investigation of Civil Servants), causes a delay of months or years before a case is brought to court, and deters many meritorious proceedings from ever being initiated. For cases that do progress to trial, the trials themselves last for years, and accused police officers almost invariably remain at liberty, free to interfere with witnesses and to intimidate plaintiffs. Lawyers working on behalf of victims or their families face hostility and intimidation from members of the security forces. For example, at a hearing in Aydin in the Baki Erdogan case in May 1998, at which police officers were convicted by a penal court, off duty police officers who had packed into the courtroom started beating lawyers, journalists and members of the victim's family to show their displeasure with the decision.

Over and above these procedural problems, prosecutors are often reluctant to press charges against members of the security forces, or to vigorously pursue a prosecution. For example, in a verdict of the European Court for Human Rights in 1997, *Aydin vs. Turkey*, the Court noted that the deferential attitude of the prosecutor toward members of the security forces was "a particularly serious shortcoming in the investigation."

In its meetings with prosecutors throughout Turkey, the Lawyers Committee has observed that many of them are highly skeptical of the claims that detainees are routinely tortured and abused, believing such claims to be politically motivated. Where medical evidence of torture exists, prosecutors have asserted that it is self-inflicted. More fundamentally, some prosecutors simply believe that they are on the same side as the security forces in a fight against extremism and terrorism, and in such circumstances are not willing to turn against their allies. Such attitudes, which are not universally shared by prosecutors, fuel conflict and undermine the rule of law.

## **PERSECUTION OF LAWYERS AND HUMAN RIGHTS ADVOCATES**

The cases of lawyers and human rights advocates prosecuted for defending human rights and the rule of law, and cases of human rights organizations blocked from carrying out their legitimate function, are

at the heart of the Lawyers Committee's work on Turkey program. Such cases are important for three reasons: they derive from the continued existence of laws that contravene international human rights standards, on one hand by criminalizing peaceful expression of opinions, and on the other by denying due process to detainees facing criminal charges;

Turkish human rights advocates perform an essential function as independent monitors of Turkey's observance of international human rights norms and as conduits of information to the international community;

They exemplify the damaging, but still common, official attitude that Turkey can overcome problems caused by international criticism of its human rights record by silencing those who expose human rights violations, rather than by tackling the source of the problem—the prevalence of violations.

The Lawyers Committee is currently campaigning for the reopening of the local branch of the Turkish Human Rights Association in the city of Diyarbakir, the largest city of the troubled south-eastern Anatolian region which was closed in May 1997. The Diyarbakir branch of the Human Rights Foundation was closed in June 1998, just 4 days after opening, but was able to reopen in early August after international pressure. The Urfa branch of the Organization of Human Rights and Solidarity for Oppressed People, Mazlum Der, which was the sole monitoring organization with an office in the southeast was closed in December 1998. The Lawyers Committee is also calling for the dismissal of charges against 25 lawyers in Diyarbakir, accused of support for terrorism. The prosecution, which has little evidentiary foundation, has been in progress since 1993 and seems designed to deter lawyers from representing unpopular political suspects and from reporting on human rights problems in the southeast to international bodies like the European Court of Human Rights or Amnesty International.

Public attitudes toward human rights are influenced by the way in which human rights advocates and defense lawyers for unpopular political defendants are treated by the authorities. As long as human rights advocates are prosecuted for their non-violent human rights activities, the message is clear: human rights activists are subversives, and the ideals of human rights are undesirable. The atmosphere has been further poisoned by many incidents in which lawyers have been identified with their politically unpopular clients and subjected to physical attack, arrest, and wrongful prosecution for carrying out their professional duties.

### **SUGGESTIONS FOR U.S. POLICY**

There is deep-seated resistance to human rights reform in powerful areas of the Turkish state power structures. The U.S. Government must continue to insist that the Turkish authorities continue to strive to make the progress to which they are committed in the human rights field. Such progress must properly be seen as a pre-condition to further developments in the positive relationship between the U.S. and Turkish Governments. Regrettably, the Turkish Government as a whole is not committed to human rights reform, despite honorable efforts in this regard by several government leaders.

The Lawyers Committee welcomes the emphasis that was given by Assistant Secretary Shattuck and other administration officials in recent years to encouraging the Turkish Government to repeal laws that criminalize non-violent speech. Removing the obstacles that currently impede the work of Turkish human rights organizations will enhance the capacity of Turkish society to resolve its own human rights problems. Before remedies can be found, the Turkish Government must permit an open and frank national debate about human rights issues. Turkish Government officials should be encouraged to make good on promises to reform speech laws.

The recent State Department Country Report on Turkey was comprehensive and well-researched. However, it can be faulted for straining in some places, notably in the introductory section, to put a favorable gloss on troubling human rights problems. For example, the report talks of a "general recognition, including by the government, that the country's human rights performance is inadequate and needs to be brought in line." Regrettably, there is no such general recognition; powerful elements within the Turkish Government remain resistant to human rights reform. The report also glossed over shortcoming with regard to respect for the principle of the independence of the judiciary by asserting that "the government respects the Constitution's provisions for an independent judiciary." Challenges facing the Turkish Government in its obligation to comply with rulings of the European Court of Human Rights were also given insufficient weight in the report. The court has ruled, for example, that the presence of a military officer compromises the independence of State Security Courts. As yet, no step has been taken to remove the military officer, although SSC trials are continuing. Such omissions and evasions send an unhelpful message to the Turkish Government that it will not be held accountable for continuing to fail to abide by its international obligations in the human rights field.

We strongly urge U.S. Government officials including the highest levels, to continue to press for specific reforms in Turkey's human rights practice. In doing this, the U.S. Government is not exerting illegitimate outside influence on Turkish domestic affairs. Rather, the U.S. Government will be supporting policies that are most likely to contribute to political stability and to a peaceful resolution of Turkey's internal political problems.

The alternative to reform is a return to repression. Such a policy will only fuel continuing violent conflict over the Kurdish question and, if directed against non-violent Islamist political movements, could provoke a violent reaction from religious extremists. These are both gloomy scenarios which the U.S. Government must do all in its power to persuade its ally to avoid. We call on the U.S. Government to urge the Turkish Government to take practical steps to implement the following recommendations:

## **RECOMMENDATIONS**

### **THE ADMINISTRATION OF JUSTICE**

The State Security Courts should be abolished and their functions transferred to the existing penal courts, operating under the existing code of criminal procedure. (Recognizing that this root and branch

reform may be too much to ask for in the present uncertain political circumstances, we offer the following recommendations addressing different aspects of the administration of justice.)

Military judges should be removed from the judicial panel in all cases in which civilians are the defendants. As the European Court of Human Rights has noted the presence of a serving military officer among the judges violates the European Convention's guarantee of an independent, impartial tribunal.

Executive influence over the Supreme Council of Judges and Prosecutors should be removed in order to better ensure the separation of powers and the independence of the judiciary, as required in the Constitution. The role of the Minister of Justice as a member of the council should be reviewed, with a view to decreasing his influence over the process of appointing, promoting, transferring and disciplining judges and prosecutors.

Prosecutors should be empowered to take independent action to carry out their full function as envisaged in Turkish law, including fulfilling their obligation to safeguard the wellbeing of suspects during pre-arraignment detention. Additional resources should be provided to prosecutors to enable them to carry out their duties in full.

The security forces' power of detention should be strictly controlled. They should have no power to detain on their own authority except where the detainee presents an immediate danger to others, or where a detainee is discovered in the act of committing a crime.

All detainees regardless of the gravity of the offense of which they are accused should be granted access to legal counsel within 48 hours. Defendants must be given adequate access to legal advice during interrogation by the security forces or the prosecutor, which often occurs within the first few days of detention.

Lawyers representing defendants in SSC cases should be permitted free access to their clients, unless exceptional circumstances require some restriction of this right. Such restrictions must be for good cause, should be regulated by a judge and should be for the minimum possible duration. They must never be of a nature to detract from the underlying fairness of the proceedings.

Lawyers representing defendants in SSC cases should not be subjected to any form of intimidation or harassment because of their work as defense lawyers.

In all cases, relatives should be informed within 24 hours that an immediate family member has been taken into detention.

Enhanced measures to safeguard detainees against torture during pre-trial detention must be enacted. Evidence shown to be extracted by coercive, illegal measures must be excluded from the file. Records of all members of the security forces coming into contact with detainees should be scrupulously maintained, and be available to detainees and their legal representatives.

## **IMPUNITY**

1. Public prosecutors rather than provincial administrative boards in the State of Emergency regions should have the sole authority to initiate prosecution of security forces alleged to have violated the law.

Amend the Temporary Law on the Procedure for Investigation of Civil Servants such that public prosecutors rather than provincial administrative boards have direct authority and responsibility to investigate and prosecute crimes by security force members, whether they are acting in their administrative or their judicial capacities.

Promote efforts to educate prosecutors regarding the prevalence of torture and Turkey's obligations under international law to provide effective redress of such claims.

3. Create independent procedures for recording every torture claim that is made to a prosecutor and the eventual disposition of the claim.

4. Increase prosecutorial resources either through the creation of a judicial police force directly under the control of prosecutors or by other appropriate means designed to ensure effective, timely, and independent investigation and prosecution of torture claims.

5. Where credible evidence exists implicating members of the security forces in human rights violations, those officers should be immediately removed from duty pending trial. Care should be taken to avoid conflicts of interest in the investigation of fellow officers by members of the security forces.

6. Require that physicians involved in the examination of detainees receive adequate forensic training to identify the sometimes subtle signs of torture; strengthen measures to protect physicians who report torture from harassment and intimidation; permit detainees to obtain medical examinations from independent physicians and require that such reports be admissible as evidence of torture or coercion.

7. Require systematic recordkeeping in places of detention, indicating the name of the detainee; location and duration of detention; and identity of all examining officers. Adoption of the recommendations concerning access to counsel can be expected to improve the accuracy of such recordkeeping.

8. Implement all recommendations in the Council of Europe's Committee for the Prevention of Torture's "Public Statement on Turkey" of December 6, 1996, including reviewing past sentences of officers convicted under Articles 243 and 245 of the Penal Code to determine with these articles should be amended and strengthened.

#### **PROTECTING AND PROMOTING RESPECT FOR THE WORK OF LAWYERS & HUMAN RIGHTS ADVOCATES**

1. Expeditiously resolve pending prosecutions against attorneys and human rights advocates and immediately dismiss those cases in which no illegal activity has been proven. Dismiss charges against 25 lawyers on trial incase no. 1993/658 before Diyarbakir State Security Court No. 3.

2. Curtail prosecution of attorneys and human rights advocates for their legitimate professional and political activities as protected under Article 10 of the European Convention, and elaborated by the U.N. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally recognized Human Rights and Fundamental Freedoms, and the U.N. Basic Principles on the Role of Lawyers.



3. Curtail the practice of administrative closure of organizations based on their legitimate political and professional activities as protected under Article 11 of the European Convention and elaborated by the Defenders' Declaration; reopen those organizations that have been closed based on such activities.

4. Promote a climate of respect and cooperation among judges, prosecutors, and defense attorneys by educating all three groups concerning their respective roles and responsibilities within the criminal justice system. Particular attention must be paid to eliminating the widespread identification of defense lawyers with the causes of their clients.

5. Take all necessary steps to protect the safety of lawyers both inside and outside the court room from those who threaten them based on their representation of unpopular clients, whether or not such threats are directly state-sponsored.

6. Take all necessary steps to protect the safety of human rights advocates from those who would threaten them based on their work, whether or not such threats are directly state-sponsored.

LETTER FROM THE TURKISH AMBASSADOR TO CHAIRMAN  
CHRISTOPHER H. SMITH, DATED MARCH 8, 1999



*Baki Ilkin*  
Ambassador

*Turkish Embassy*  
*Washington, D.C.*

March 8, 1999

The Honorable Christopher H. Smith  
Chairman  
Commission of Security and Cooperation  
In Europe  
234 Ford House Office Building  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter dated March 5, 1999, informing me about the holding of a public hearing "The Road to Istanbul: Human Rights in the Republic of Turkey" on March 18, 1999.

Frankly, I have certain difficulty in understanding the need to hold such a public hearing at a time when Turkey has scored substantial success against terrorism and is now trying to redress the wounds of the bereaved families of more than 30,000 people, who have lost their lives in the PKK terror campaign. What Turkey now seeks and deserves is a solid solidarity on the part of her friends and allies, at this critical juncture. However, I will contact Ankara to see if we could assist the participation of certain Turkish non-officials who could be the counterparts of other attending NGOs.

As the Chairman of the Helsinki Commission, and as a senior and seasoned legislator, I am sure that you know how a Foreign Ambassador can be invited to have an exchange of views with the parliamentarians of a host country. If you and the members of your Commission are interested to have a private meeting with me, I would be more than happy to brief you on human rights, terrorism and the need for international cooperation in combating this scourge.

I would also appreciate it, if we are informed about the other NGOs, which will participate in the hearing so that the Embassy could try to find the right Turkish counterparts.

Yours Sincerely,  
*Baki Ilkin*

## COMMISSION INITIATIVES ON THE PROPOSED ISTANBUL OSCE SUMMIT

**COMMISSION ON  
SECURITY AND COOPERATION IN EUROPE**  
234 FORD HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-1901

### Commission Initiatives on Proposed Istanbul OSCE Summit

- 11/22/96 Letter to Secretary of State Warren Christopher
- 7/15/97 Letter to Secretary of State Madeleine K. Albright
- 8/13/97 Response from Assistant Secretary Barbara Larkin
- 10/28/97 H. Con. Res. 179 introduced by Mr. Smith, et al
- 10/29/97 Mr. Smith questions Assistant Secretary of State Marc Grossman at HIRC hearing
- 10/31/97 S. Con. Res. 59 introduced by Sen. D'Amato
- 11/3/97 Letter to Assistant Secretary of State Marc Grossman
- 12/5/97 Letter to Secretary of State Madeleine K. Albright
- 2/3/98 Written response to question submitted by Mr. Smith to Assistant Secretary of State John Shattuck (HIRC hearing)
- 3/18/98 Letter to Secretary of State Madeleine K. Albright
- 2/12/99 Letter to Secretary of State Madeleine K. Albright
- 3/17/99 Response from Assistant Secretary Barbara Larkin



The Honorable Warren Christopher  
November 22, 1996  
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Regrettably, long overdue reforms of Turkey's human rights policies and practices announced in mid-October by the Turkish Deputy Prime Minister and Foreign Minister, Mrs. Çiller, have not materialized and the prospects for genuine change in the near term appear remote.

Another key factor in our urgent call for rejection of Turkey's proposal to host an OSCE summit is Turkey's continuing illegal and forcible occupation of Cypriot territory in blatant violation of OSCE principles. A substantial force of 30,000 Turkish troops remains in Cyprus today in a clear breach of Cypriot sovereignty. In recent months, we have witnessed the worst violence against innocent civilians along the cease-fire line since the 1974 invasion, resulting in at least 5 deaths. In addition, Turkish and Turkish Cypriot authorities have failed to fully account for at least 1,614 Greek Cypriots and five Americans missing since 1974.

While some may argue that allowing Turkey to host an OSCE summit might provide political impetus for positive change, we are not convinced, particularly in light of the fact that several high-level conferences have been held in Turkey without any appreciable impact on that country's human rights policies or practices. Allowing Turkey to host an OSCE summit based upon an inference of increased leverage to improve Turkish human rights performance, when they are in current, active violation of solemn international commitments would be wrong.

Turkey's desire to host an OSCE summit must be matched by concrete steps to improve its dismal human rights record, to end its illegal occupation of Cypriot territory, and to contribute to a reduction of tensions in the eastern Mediterranean. Absent demonstrable progress in these areas, the United States should withhold consensus on any proposal to hold an OSCE summit in Turkey.

Sincerely,

  
ALFONSE D'AMATO, U.S.S.  
Co-Chairman

  
CHRISTOPHER H. SMITH, M.C.  
Chairman

CHS/AD:rjm

LETTER TO SECRETARY OF STATE MADELEINE ALBRIGHT,  
DATED JULY 15, 1997

COMMISSION ON  
SECURITY AND COOPERATION IN EUROPE

234 FORD HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515

(202) 226-1801

July 15, 1997

The Honorable Madeleine Korbelt Albright  
Secretary of State  
Department of State  
Washington, D.C. 20520

Dear Madam Secretary:

We write to reiterate and further explain our steadfast opposition to Turkey as the venue for an Organization for Security and Cooperation in Europe (OSCE) summit meeting and ask the Department, which we understand shares our view, to maintain the United States' refusal to give consensus to the Turkish proposal that the next summit should be held in Istanbul. We also observe that a rigid schedule of biennial summit meetings of the OSCE Heads of State or Government appears to be unwarranted at this stage of the OSCE's development and suggest that serious consideration be given to terminating the mandate which currently requires such meetings to be held whether circumstances warrant them or not.

Last November, the Republic of Turkey—an original OSCE participating State—first proposed Istanbul as the site for the next OSCE summit. At that time, we wrote to Secretary Christopher urging that the United States reject this proposal. A decision was postponed until the Copenhagen Ministerial, scheduled for this December, and the Lisbon Document simply noted Turkey's invitation.

The United States should withhold consensus on any proposal to hold an OSCE summit in Turkey until and unless Ankara has released the imprisoned Democracy Party (DEP) parliamentarians, journalists and others detained for the non-violent expression of their views; ended the persecution of medical professionals and NGOs who provide treatment to victims of torture and expose human rights abuses; and began to aggressively prosecute those responsible for torture, including members of the security forces.

In addition, the United States should urge the Government of Turkey to undertake additional steps aimed at improving its human rights record, including abolishing Article 8 of the Anti-Terror Law, Article 312 of the Penal Code, and other statutes which violate the principle of freedom of expression and ensuring full respect for the civil, political, and cultural rights of members of national minorities, including ethnic Kurds.

Regrettably, there has been no improvement in Turkey's implementation of OSCE human rights commitments in the eight months since our original letter to the Department. Despite a number of changes in Turkish law, the fact of the matter is that even these modest proposals have not translated into improved human rights in Turkey. Ankara's flagrant violations of OSCE standards and norms continues and the problems raised by the United States Delegation to the OSCE Review Meeting last November persist.

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Expert witnesses at a recent Commission briefing underscored the continued, well-documented, and widespread use of torture by Turkish security forces and the failure of the Government of Turkey to take determined action to correct such gross violations of OSCE provisions and international humanitarian law. Even the much heralded reduction of periods for the detention of those accused of certain crimes has failed to deter the use of torture. The fact is that this change on paper is commonly circumvented by the authorities. As one U.S. official in Turkey observed in discussion with Commission staff, a person will be held in incommunicado detention for days, then the prisoner's name will be postdated for purposes of official police logs giving the appearance that the person has been held within the period provided for under the revised law. Turkish authorities also continue to persecute those who attempt to assist the victims of torture, as in the case of Dr. Tufan Köse.

Despite revisions in the Anti-Terror Law, its provisions continue to be broadly used against writers, journalists, publishers, politicians, musicians, and students. Increasingly, prosecutors have applied Article 312 of the Criminal Code, which forbids "incitement to racial or ethnic enmity." Government agents continue to harass human rights monitors. According to a recent report issued by the Committee to Protect Journalists, 78 journalists were in jail in Turkey at the beginning of 1997—more than in any other country in the world.

Many human rights abuses have been targeted at Kurds who publicly or politically assert their Kurdish identity. The Kurdish Cultural and Research Foundation offices in Istanbul were closed by police in June to prevent the teaching of Kurdish language classes. In addition, four former parliamentarians from the now banned Kurdish-based Democracy Party (DEP): Leyla Zana, Hatip Dicle, Orhan Doğan, and Selim Sadak, who have completed three years of their 15-year sentences, remain imprisoned at Ankara's Ulucanlar Prison. Among the actions cited in Leyla Zana's indictment was her appearance before the Helsinki Commission. The Lawyers Committee for Human Rights has expressed concern over the case of human rights lawyer Hasan Doğan, a member of the People's Democracy Party (HADEP), who, like many members of the party, has been subject to detention and prosecution.

The Government of Turkey has similarly pursued an aggressive campaign of harassment of non-governmental organizations, including the Human Rights Foundation of Turkey and the Human Rights Association. An Association forum on capital punishment was banned in early May as was a peace conference sponsored by international and Turkish NGOs. Human Rights Association branch offices in Diyarbakir, Malatya, Izmir, Konya, and Urfa have been raided and closed.

As the Department's own report on human rights practices in Turkey recently concluded, Ankara "was unable to sustain improvements made in 1995 and, as a result, its record was uneven in 1996 and deteriorated in some respects." While Turkish civilian authorities remain publicly

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committed to the establishment of a rule of law state and respect for human rights, torture, excessive use of force, and other serious human rights abuses by the security forces continue. It is most unfortunate that Turkey's leaders, including President Demirel — who originally signed the 1975 Helsinki Final Act on behalf of Turkey — have not been able to effectively address long-standing human rights concerns.

Madam Secretary, the privilege and prestige of hosting such an OSCE event should be reserved for participating States that have demonstrated their support for Helsinki principles and standards — particularly respect for human rights — in both word and in deed. Turkey should not be allowed to serve as host of such a meeting given that country's dismal human rights record.

While some may argue that allowing Turkey to host an OSCE summit meeting might provide political impetus for positive change, we are not convinced, particularly in light of the failure of the Turkish Government to improve the human rights situation in the eight months since it proposed to host the next OSCE summit. We note that several high-level conferences have been held in Turkey without any appreciable impact on that country's human rights policies or practices.

Promises of improved human rights alone should not suffice. Turkey's desire to host an OSCE summit must be matched by concrete steps to improve its dismal human rights record.

We appreciate your consideration of our views on this important matter and look forward to receiving your reply.

Sincerely,



CHRISTOPHER H. SMITH, M.C.  
 Co-Chairman



ALFONSE D'AMATO, U.S.S.  
 Chairman



RESPONSE FROM ASSISTANT SECRETARY BARBARA LARKIN,  
DATED 8/13/97



United States Department of State

Washington, D.C. 20520

AUG 13 1997

Dear Mr. Chairman:

I am responding on behalf of the Secretary of State to your July 15 letter regarding your concerns about the possible selection of Turkey as the venue for the next summit meeting of the Organization for Security and Cooperation in Europe (OSCE).

The Department of State shares your concerns about Turkey's human rights record. All states participating in the OSCE are expected to adhere to the principles of the Helsinki Final Act and other OSCE commitments, including respect for human rights and fundamental freedoms. The U.S. Government has consistently called attention to human rights problems in Turkey and has urged improvements. It does not in any way condone Turkey's, or any other OSCE state's, failure to implement OSCE commitments.

The OSCE, however, is also a means of addressing and correcting human rights shortcomings. As you note in your letter, the issue of Turkey's human rights violations was raised at the November OSCE Review Meeting, and will likely continue to be raised at such meetings until Turkey demonstrates that it has taken concrete measures to improve its record. Holding the summit in Turkey could provide an opportunity to influence Turkey to improve its human rights record.

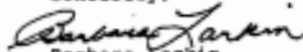
As you note, the Turkish government has made some effort to address problem areas, through the relaxation of restrictions on freedom of expression and the recent promulgation of legal reforms which, if fully implemented, would begin to address the torture problem. These measures are only a first step in addressing the problems that exist, but we believe they reflect the commitment of the Turkish government to address its human rights problems. We have been particularly encouraged by the positive attitude the new government, which came to power July 12, has demonstrated in dealing with human rights issues.

The Honorable  
Christopher H. Smith, Co-Chairman,  
Commission on Security and Cooperation in Europe,  
House of Representatives.

As you know, the fifty-four nations of the OSCE will discuss the question of a summit venue. As in all OSCE decisions, any decision will have to be arrived at through consensus, which will likely take some time to achieve. In the meantime, the Department of State welcomes your views, and will seriously consider your concerns about the OSCE summit site. I welcome your continuing input on this issue, and thank you for your thoughtful letter.

We appreciate your letter and hope this information is helpful. Please do not hesitate to contact us again if we can be of further assistance.

Sincerely,

  
Barbara Larkin  
Assistant Secretary  
Legislative Affairs

H. CON. RES. 179, INTRODUCED BY MR. SMITH,  
DATED OCTOBER 29, 1997

IV

105TH CONGRESS  
1ST SESSION

## H. CON. RES. 179

Expressing the sense of Congress with respect to the human rights situation in the Republic of Turkey in light of that country's desire to host the next summit meeting of the heads of state or government of the Organization for Security and Cooperation in Europe (OSCE).

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### IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1997

Mr. SMITH of New Jersey (for himself, Mr. HOYER, Mr. MARKEY, Mr. CARDIN, and Mr. SALMON) submitted the following concurrent resolution; which was referred to the Committee on International Relations

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## CONCURRENT RESOLUTION

Expressing the sense of Congress with respect to the human rights situation in the Republic of Turkey in light of that country's desire to host the next summit meeting of the heads of state or government of the Organization for Security and Cooperation in Europe (OSCE).

Whereas the Republic of Turkey, because of its position at the crossroads of Europe, the Caucasus, Central Asia, and the Middle East, is well positioned to play a leading role in shaping developments in Europe and beyond;

Whereas the Republic of Turkey has been a longstanding member of numerous international organizations, including the Council of Europe (1949), the North Atlantic

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Treaty Organization (1952), and the Organization for Security and Cooperation in Europe (1975);

Whereas Turkey's President, Suleyman Demirel, was an original signer of the 1975 Helsinki Final Act of the Conference on Security and Cooperation in Europe;

Whereas the Republic of Turkey proposed in late 1996 that Istanbul serve as the venue for the next OSCE summit, a prestigious gathering of the heads of state or government of countries in Europe, Central Asia, and North America, including the United States;

Whereas a decision on the venue of the next OSCE summit will require the consensus of all OSCE participating states, including the United States;

Whereas the OSCE participating states, including Turkey, have declared their steadfast commitment to democracy based on human rights and fundamental freedoms, the protection and promotion of which is the first responsibility of government;

Whereas the development of genuine democracy in Turkey is undermined by ongoing violations of international humanitarian law as well as other human rights obligations and commitments, including provisions of the Helsinki Final Act and other OSCE documents, by which Turkey is bound;

Whereas the Department of State has found that serious human rights problems persist in Turkey and that human rights abuses have not been limited to the southeast, where Turkey has engaged in an armed conflict with the terrorist Kurdistan Workers Party (PKK) for over a decade;

Whereas flagrant violations of OSCE standards and norms continue and the problems raised by the United States Delegation at the November 1996 OSCE Review Meeting in Vienna persist;

Whereas expert witnesses at a 1997 briefing of the Commission on Security and Cooperation in Europe (in this concurrent resolution referred to as the "Helsinki Commission") underscored the continued, well-documented, and widespread use of torture by Turkish security forces and the failure of the Government of Turkey to take determined action to correct such gross violations of OSCE provisions and international humanitarian law;

Whereas the Government of Turkey continues to use broadly the Anti-Terror Law and Article 312 of the Criminal Code against writers, journalists, publishers, politicians, musicians, and students;

Whereas the Committee to Protect Journalists has concluded that more journalists are currently jailed in Turkey than in any other country in the world;

Whereas the Government of Turkey has pursued an aggressive campaign of harassment of nongovernmental organizations, including the Human Rights Foundation of Turkey; branch offices of the Human Rights Association in Diyarbakir, Malatya, Izmir, Konya, and Urfa have been raided and closed; and Turkish authorities continue to persecute the members of nongovernmental organizations who attempt to assist the victims of torture;

Whereas four former parliamentarians from the now banned Kurdish-based Democracy Party (DEP) Leyla Zana, Hatip Dicle, Orhan Dogan, and Selim Sadak remain imprisoned at Ankara's Ulucanlar Prison and among the

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actions cited in Zana's indictment was her 1993 appearance before the Helsinki Commission in Washington, D.C.;

Whereas the Lawyers Committee for Human Rights has expressed concern over the case of human rights lawyer Hasan Doğan, a member of the People's Democracy Party (HADEP), who like many members of the party, has been subject to detention and prosecution;

Whereas many human rights abuses have been committed against Kurds who assert their Kurdish identity, and Kurdish institutions, such as the Kurdish Cultural and Research Foundation, have been targeted for closure;

Whereas the Ecumenical Patriarchate has repeatedly requested permission to reopen the Orthodox seminary on the island of Halki closed by the Turkish authorities since the 1970s despite Turkey's OSCE commitment to "allow the training of religious personnel in appropriate institutions";

Whereas members of other minority religions or beliefs, including Armenian and Syrian Orthodox believers, as well as Roman Catholics, Armenian, Chaldean, Greek and Syrian Catholics, and Protestants have faced various forms of discrimination and harassment;

Whereas the closing of the border with Armenia by Turkey in 1993 remains an obstacle to the development of mutual understanding and confidence, and friendly and good-neighborly relations between those OSCE participating states;

Whereas the Republic of Turkey has repeatedly rebuffed offers by the Chair-in-Office of the OSCE to dispatch a

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personal representative to Turkey for purposes of assessing developments in that country;

Whereas, despite the fact that a number of Turkish civilian authorities remain publicly committed to the establishment of rule of law and to respect for human rights, torture, excessive use of force, and other serious human rights abuses by the security forces continue; and

Whereas the Government of Turkey has failed to meaningfully address these and other human rights concerns since it first proposed to host the next OSCE summit and thereby has squandered this opportunity to demonstrate its determination to improve implementation of Turkey's OSCE commitments: Now, therefore, be it

1       *Resolved by the House of Representatives (the Senate*

2 *concurring*), That it is the sense of Congress that—

3           (1) the privilege and prestige of hosting a sum-  
4       mit of the heads of state or government of the Orga-  
5       nization for Security and Cooperation in Europe  
6       (OSCE) should be reserved for participating states  
7       that have demonstrated in word and in deed stead-  
8       fast support for Helsinki principles and standards,  
9       particularly respect for human rights;

10          (2) the United States should refuse to give con-  
11       sensus to any proposal that Turkey serve as the  
12       venue for a summit meeting of the heads of state or  
13       government of OSCE countries until the Govern-  
14       ment of Turkey has demonstrably improved imple-  
15       mentation of its freely undertaken OSCE commit-

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1       ments, including action to address those human  
2       rights concerns enumerated in the preamble of this  
3       resolution;

4           (3) the United States should encourage the de-  
5       velopment of genuine democracy in the Republic of  
6       Turkey based on protection of human rights and  
7       fundamental freedoms; and

8           (4) the President of the United States should  
9       report to Congress not later than April 15, 1998, on  
10      any improvement in the actual human rights record  
11      in Turkey, including improvements in that country's  
12      implementation of provisions of the Helsinki Final  
13      Act and other OSCE documents.

14      SEC. 2. The Clerk of the House of Representatives  
15      shall transmit a copy of this concurrent resolution to the  
16      President of the United States.

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